

APPLICANT:
Steven and Deborah Adornato

REQUEST:
Variance to allow a retaining wall within
a recorded easement

HEARING DATE: November 5, 2003

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5376

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Steven and Deborah Adornato

LOCATION: 2200 Tory Way (North Forest subdivision), Forest Hill
Tax Map 33 / Grid 4D / Parcel 421 / Lot: 46
Third Election District

ZONING: VR / Village Residential

REQUEST: Variance to Section 267-26C(6) of the Harford County Code to allow a
retaining wall within a recorded 10 foot drainage and utility easement.

TESTIMONY AND EVIDENCE OF RECORD:

The Applicants testified that the subject property is encumbered by a drainage swale on the rear portion of their property. This drainage swale channels water generated by other properties in the community. Due to its size and purpose, the swale cannot be relocated, although it impairs the Applicants' use of their property.

According to testimony and the application, the construction of a retaining wall 5 feet from the rear yard of the subject property, but within the 10 foot drainage and utility easement, will allow the Applicants to reclaim and regrade much of their rear yard. The retaining wall will not interfere with the water flow in the swale and would have no adverse impact on adjoining property owners, but would benefit the Applicants' property.

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There was further testimony that no other properties in the neighborhood are impacted by the drainage swale to the extent of the impact to the Applicants.

No protestants appeared in opposition.

The Harford County Department of Planning and Zoning recommends approval, subject to conditions.

APPLICABLE LAW:

The Applicants are requesting a variance, pursuant to Section 267-11 of the Harford County Code, to the requirements of Section 267-26C(6), which reads:

“No accessory use, or structure, except fences, shall be located within a recorded easement area..”

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants' property is unique as it is encumbered by a pre-existing drainage swale of significant depth and at a location unique to the Applicants' property. The Applicants suffer an impaired property value and limitations of use of their property which is an unreasonable hardship to them. This variance, once granted, will not be detrimental to adjacent properties or affect the purposes of the Zoning Code.

CONCLUSION:

The variance, as requested, is hereby approved, subject to the following conditions:

1. The Harford County Department of Public Works shall approve the final plans for the retaining wall. The location and construction are to be in accordance with the plans included with the Applicants' application.
2. The Applicants shall obtain all necessary permits and inspections.

Date: November 26, 2003

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner